

Senate File 2298 - Introduced

SENATE FILE 2298
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3078)

A BILL FOR

1 An Act relating to direct care professionals including the
2 establishment of a board of direct care professionals,
3 providing for implementation, making penalties applicable,
4 and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 152F.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Board*" means the board of direct care professionals
5 created under chapter 147.

6 2. "*Community living professional*" means a direct care
7 associate who has completed advanced training and is certified
8 to provide home and community living, instrumental activities
9 of daily living, and personal support services.

10 3. "*Direct care associate*" means an individual who has
11 completed core training and is certified to provide direct care
12 services in the state.

13 4. "*Direct care instructor*" means an individual approved
14 by the board to provide direct care instruction to direct care
15 professionals.

16 5. "*Direct care professional*" means an individual who
17 provides direct care services for compensation and is a direct
18 care associate, a community living professional, a health
19 support professional, or a personal support professional.

20 6. "*Direct care services*" means the services provided to
21 individuals who are ill or individuals with disabilities as
22 specified in the individual's service plan or in documented
23 goals, including but not limited to home and community living
24 services, instrumental activities of daily living services,
25 personal activities of daily living services, personal support
26 services, and health monitoring and maintenance services.

27 7. "*Direct care trainer*" means a direct care instructor who
28 is approved by the board to train instructors.

29 8. "*Health monitoring and maintenance services*" means
30 medically-oriented services that assist an individual in
31 maintaining the individual's health including measuring intake
32 and output; providing catheter and ostomy care; collecting
33 specimens; checking vital signs, including temperature, pulse,
34 respiration, and blood pressure; measuring height and weight;
35 performing range of motion exercises; providing assistance with

1 urinary care; and application of thrombo embolic deterrent hose
2 or hot and cold packs.

3 9. "*Health support professional*" means a direct care
4 associate who has completed advanced training and is certified
5 to provide personal activities of daily living and health
6 monitoring and maintenance services.

7 10. "*Home and community living services*" means services to
8 enhance or maintain independence of individuals including such
9 activities as helping individuals develop and meet personal
10 goals, providing direct physical and emotional support and
11 assistance for persons with disabilities, utilizing crisis
12 intervention and positive behavior supports, and using and
13 following individual support plans.

14 11. "*Instrumental activities of daily living services*" means
15 services provided to assist individuals with daily living tasks
16 to allow them to function independently in a home or community
17 setting, including but not limited to assistance with managing
18 money, transportation, light housekeeping, and shopping and
19 cooking.

20 12. "*Personal activities of daily living services*" means
21 services to assist individuals in meeting basic needs,
22 including but not limited to bathing, back rubs, and skin care;
23 grooming activities; assistance with dressing and undressing;
24 assistance with eating and feeding; assistance with toileting;
25 and assistance with mobility, including transfers, walking, and
26 turning in bed.

27 13. "*Personal support professional*" means a direct care
28 associate who has completed advanced training and is certified
29 to provide instrumental activities of daily living, personal
30 activities of daily living, and personal support services.

31 14. "*Personal support services*" means support services
32 provided to an individual as the individual performs personal
33 activities of daily living including but not limited to
34 coaching and prompting, and teaching skills and behaviors.

35 15. "*Service plan*" means a written, consumer-centered,

1 outcome-based plan of services.

2 16. "*Specialty endorsement*" means an advanced level of
3 certification based on requirements developed by experts in a
4 particular discipline or professional area and approved by the
5 board.

6 Sec. 2. NEW SECTION. 152F.2 Certification required —
7 exceptions — use of title.

8 1. Unless otherwise exempt under section 152F.4, beginning
9 January 1, 2014, an individual shall not provide direct care
10 services in this state without being certified as a direct care
11 associate.

12 2. An individual who is not certified pursuant to this
13 chapter shall not use words or titles which imply or represent
14 that the person is certified as a direct care professional
15 under this chapter.

16 3. A direct care associate shall not act as or represent
17 that the person is a direct care professional with advanced
18 training certification or a specialty endorsement, unless the
19 direct care associate is first certified at the appropriate
20 level of certification under this chapter.

21 4. Notwithstanding any provision to the contrary, a person
22 who completes advanced training or meets the requirements for
23 a specialty endorsement is not required to be certified at
24 that level if the person does not act as or represent that the
25 person is certified at that level. Section 147.83 does not
26 apply to a direct care associate who is not certified as a
27 direct care professional with advanced training certification
28 or a specialty endorsement if the direct care associate does
29 not act as or represent that the person is certified at that
30 level.

31 Sec. 3. NEW SECTION. 152F.3 Requirements to obtain
32 certification — renewal — continuing education — reciprocity.

33 1. An applicant for certification as a direct care associate
34 shall present evidence satisfactory to the board that the
35 applicant meets all of the following requirements:

1 *a.* The applicant has successfully completed the required
2 education for the certification from a board-approved direct
3 care instructor or direct care trainer.

4 *b.* The applicant has paid all fees required by the board.

5 *c.* The applicant certifies that the applicant will conduct
6 all professional activities in accordance with standards for
7 professional conduct established by the board.

8 2. An applicant for certification as a direct care
9 professional with advanced training or a specialty endorsement
10 shall present evidence satisfactory to the board that the
11 applicant meets all of the following requirements:

12 *a.* The applicant has successfully completed the required
13 education for the certification from a board-approved direct
14 care instructor or direct care trainer.

15 *b.* The applicant has paid all fees required by the board.

16 *c.* The applicant has passed a state examination approved by
17 the board.

18 *d.* The applicant certifies that the applicant will conduct
19 all professional activities in accordance with standards for
20 professional conduct established by the board.

21 3. A person shall renew the person's certification
22 biennially. Prior to such renewal, the person shall present
23 evidence that the person has satisfied continuing education
24 requirements and shall pay a renewal fee as determined by the
25 board.

26 4. The board shall issue the appropriate certification to an
27 applicant who demonstrates experience in direct care services
28 in another state and meets the requirements established by the
29 board for the specific certification.

30 Sec. 4. NEW SECTION. 152F.4 Scope of chapter.

31 1. The provisions of this chapter do not apply to any of the
32 following:

33 *a.* An individual who is providing direct care services
34 and is governed by a collective bargaining agreement in place
35 before July 1, 2017, until the expiration of such agreement.

1 *b.* An individual providing direct care services to a family
2 member.

3 *c.* An individual otherwise licensed who is operating within
4 the scope of that license and who does not represent to the
5 public that the individual is a direct care professional.

6 2. This chapter shall not be interpreted to preclude
7 an individual who provides direct care services but is not
8 otherwise required to be certified under this chapter from
9 being certified under this chapter on a voluntary basis.

10 Sec. 5. NEW SECTION. 152F.5 Duties of the board.

11 The board shall do all of the following:

12 1. Adopt rules consistent with this chapter, chapter 147,
13 chapter 272, and the recommendations of the direct care worker
14 advisory council established pursuant to 2008 Iowa Acts,
15 chapter 69, which are necessary for the performance of its
16 duties.

17 2. Adopt rules to provide a transition process that allows
18 individuals providing direct care services on or before July
19 1, 2014, who are subject to the certification requirements
20 of this chapter, to continue providing direct care services
21 while completing certification under this chapter. An
22 individual subject to the transition process shall complete the
23 requirements for direct care associate certification within a
24 time frame determined by rule of the board.

25 3. Establish standards and guidelines for certification
26 reciprocity.

27 4. Establish standards and guidelines for direct care
28 professionals, including minimum curriculum requirements.

29 5. Prepare and conduct, or prescribe, an examination for
30 applicants for certification.

31 6. Establish standards and guidelines for direct care
32 instructors and direct care trainers, including minimum
33 curriculum requirements and continuing education requirements.
34 Training and continuing education guidelines shall provide
35 diverse options for completion of the training and continuing

1 education, as appropriate, including but not limited to online,
2 employer-based, or educational institution-based opportunities.

3 7. Define educational activities which fulfill continuing
4 education requirements for renewal of certification.

5 8. Establish guidelines for inactive certification status
6 and inactive certification reentry.

7 Sec. 6. NEW SECTION. 152F.6 Certification suspension and
8 revocation.

9 A certification issued by the board under this chapter may be
10 suspended or revoked, or renewal of certification may be denied
11 by the board, for violation of any provision of this chapter,
12 section 147.55 or 272C.10, or rules adopted by the board.

13 Sec. 7. Section 147.1, subsections 3 and 6, Code 2011, are
14 amended to read as follows:

15 3. "*Licensed*" or "*certified*", when applied to a physician
16 and surgeon, podiatric physician, osteopathic physician and
17 surgeon, physician assistant, psychologist, chiropractor,
18 nurse, dentist, dental hygienist, dental assistant,
19 optometrist, speech pathologist, audiologist, pharmacist,
20 physical therapist, physical therapist assistant, occupational
21 therapist, occupational therapy assistant, respiratory care
22 practitioner, practitioner of cosmetology arts and sciences,
23 practitioner of barbering, funeral director, dietitian, marital
24 and family therapist, mental health counselor, social worker,
25 massage therapist, athletic trainer, acupuncturist, nursing
26 home administrator, hearing aid dispenser, ~~or~~ sign language
27 interpreter or transliterator, or direct care professional
28 means a person licensed under this subtitle.

29 6. "*Profession*" means medicine and surgery, podiatry,
30 osteopathic medicine and surgery, practice as a physician
31 assistant, psychology, chiropractic, nursing, dentistry,
32 dental hygiene, dental assisting, optometry, speech pathology,
33 audiology, pharmacy, physical therapy, physical therapist
34 assisting, occupational therapy, occupational therapy
35 assisting, respiratory care, cosmetology arts and sciences,

1 barbering, mortuary science, marital and family therapy, mental
2 health counseling, social work, dietetics, massage therapy,
3 athletic training, acupuncture, nursing home administration,
4 hearing aid dispensing, ~~or~~ sign language interpreting or
5 transliterating, or practice as a direct care professional.

6 Sec. 8. Section 147.2, subsection 1, Code 2011, is amended
7 to read as follows:

8 1. A person shall not engage in the practice of medicine
9 and surgery, podiatry, osteopathic medicine and surgery,
10 psychology, chiropractic, physical therapy, physical therapist
11 assisting, nursing, dentistry, dental hygiene, dental
12 assisting, optometry, speech pathology, audiology, occupational
13 therapy, occupational therapy assisting, respiratory care,
14 pharmacy, cosmetology arts and sciences, barbering, social
15 work, dietetics, marital and family therapy or mental health
16 counseling, massage therapy, mortuary science, athletic
17 training, acupuncture, nursing home administration, hearing aid
18 dispensing, or sign language interpreting or transliterating,
19 or shall not practice as a physician assistant or as a direct
20 care professional, unless the person has obtained a license for
21 that purpose from the board for the profession.

22 Sec. 9. Section 147.13, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 24. For direct care professionals, the
25 board of direct care professionals.

26 Sec. 10. Section 147.14, subsection 1, Code 2011, is amended
27 by adding the following new paragraph:

28 NEW PARAGRAPH. x. For the board of direct care
29 professionals, a total of nine members, five of whom are
30 direct care professionals who represent diverse settings and
31 populations served, two members of the public, one registered
32 nurse who serves as a direct care instructor, and one human
33 services professional who serves as a direct care instructor.

34 Sec. 11. Section 147.74, Code 2011, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 24. A direct care professional certified
2 under chapter 152F and this chapter may use the following:

3 *a.* A direct care professional certified as a direct care
4 associate may use the title "direct care associate" or D.C.A.
5 after the person's name.

6 *b.* A direct care professional certified as a community
7 living professional may use the title "community living
8 professional" or the letters C.L.P. after the person's name.

9 *c.* A direct care professional certified as a personal
10 support professional may use the title "personal support
11 professional" or the letters P.S.P. after the person's name.

12 *d.* A direct care professional certified as a health support
13 professional may use the title "health support professional" or
14 the letters H.S.P. after the person's name.

15 *e.* A direct care professional certified with a specialty
16 endorsement may use the title or letters determined by the
17 specialty endorsement entity and approved by the board of
18 direct care professionals.

19 Sec. 12. Section 272C.1, subsection 6, Code 2011, is amended
20 by adding the following new paragraph:

21 NEW PARAGRAPH. *ag.* The board of direct care professionals,
22 created pursuant to chapter 147.

23 Sec. 13. TRANSITION PROVISIONS.

24 1. An individual providing direct care services on or
25 before January 1, 2014, who is subject to the certification
26 requirements of this Act, may continue providing direct care
27 services while completing certification as required under this
28 Act. The board of direct care professionals shall adopt rules
29 to provide a transition process that allows such individuals
30 to complete the requirements for direct care associate
31 certification within the time frame determined by rule of the
32 board.

33 2. Notwithstanding sections 147.14 and 147.16, for the
34 initial board of direct care professionals, the governor may
35 appoint, subject to confirmation by the senate, in lieu of the

1 five members required to be direct care professionals and the
2 two members required to be direct care instructors, members
3 with experience and expertise that is substantially equivalent
4 to the professional requirements for a direct care professional
5 or direct care instructor, as applicable.

6 Sec. 14. IMPLEMENTATION. The provisions of this Act shall
7 be implemented as follows:

8 1. The sections of this Act relating to the board of direct
9 care professionals including sections 152F.1 and 152F.5, as
10 enacted in this Act; sections 147.13, 147.14, and 272C.1,
11 as amended in this Act, and as specified in the transition
12 provisions; and the section of this Act providing transition
13 provisions relating to the board shall be implemented so that a
14 board of direct care professionals is appointed no later than
15 December 15, 2012.

16 2. The sections of this Act relating to requirements for
17 certification of direct care professionals including sections
18 152F.2, 152F.3, 152F.4, and 152F.6, as enacted in this Act;
19 and sections 147.1, 147.2, and 147.74, as amended in this Act,
20 shall be implemented so that the requirements are applicable
21 beginning no later than January 1, 2014.

22 Sec. 15. EFFECTIVE UPON ENACTMENT. This Act, being deemed
23 of immediate importance, takes effect upon enactment.

24 EXPLANATION

25 This bill provides for the certification of direct care
26 professionals under new Code chapter 152F. The bill provides
27 definitions relating to levels of certification and services
28 provided, and defines the "board" as the board of direct care
29 professionals.

30 The bill requires an individual who provides direct care
31 services for compensation to be certified as a direct care
32 associate, a community living professional, a health support
33 professional, or a personal support professional.

34 The bill provides requirements for certification, renewal
35 of certification, continuing education, and reciprocity

1 of certification. The bill provides for exemptions
2 from certification and for suspension or revocation of
3 certification. The bill specifies the duties of the board of
4 direct care professionals.

5 The bill makes conforming changes in the Code under
6 Code chapter 147 (general provisions for health-related
7 professions), and Code chapter 272C (regulation of licensed
8 professions and occupations).

9 The bill provides transition provisions for the initial
10 appointment of the board and for application of requirements to
11 individuals who are subject to the certification requirements
12 of the bill and who are providing direct care services prior
13 to implementation of direct care professional requirements on
14 January 1, 2014. The bill takes effect upon enactment, but
15 provides for phased-in implementation.

16 The provisions of Code chapters 147 and 272C, including
17 a provision in Code section 147.86 that a violation of Code
18 chapter 147 or 152F is a serious misdemeanor, are applicable to
19 new Code chapter 152F.